



August 18, 2008

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, D.C. 20551

RE: Docket No. R-1316; Fair Credit Reporting Risk-Based Pricing Regulations

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I am responding to the request for comments by the Board of Governors of Federal Reserve System (Board) and Federal Trade Commission (FTC) (collectively, the Agencies) regarding the proposed rule to implement the risk-based pricing provisions of the Fair and Accurate Credit Act of 2003 (FACT Act).

NAFCU commends the Agencies' efforts in implementing the risk based notice provisions of the FACT Act. Generally, we support efforts to make terms of credit products readily available. We are concerned, however, that the proposed rule would significantly increase costs to credit unions and increase consumer confusion while not providing substantial benefits to consumers.

Notice Requirement

The proposed rule would require a credit union to provide a risk based pricing notice if, based a consumer report, it offers or extends credit to a consumer on terms that are materially less favorable than the most favorable terms available to a substantial portion of consumers from or through the credit union.

NAFCU does not believe the proposed rule sufficiently takes into account costs associated with the proposed notice requirement. Our member credit unions, for example, anticipate incurring costs for: programming or restructuring system applications; revising and developing credit review, approval and denial procedures; developing, producing and distributing the notices; and monitoring for compliance. NAFCU acknowledges that the

proposed model forms could decrease the development costs. But use of the model form would require modifications to tailor them to the credit unions and their members, as well as to different credit products to which the proposed rule applies.

Moreover, we believe that adding to the already large number of notices and disclosures that are required will further overwhelm consumers and will add to consumer confusion and defeat the purpose of these actions.

Materially Less Favorable

The proposed rule defines materially less favorable terms to mean terms extended such that the cost of credit to the consumer would be “significantly greater” than the cost of credit to other consumers. “Significantly greater,” however, is not defined. NAFCU recommends that the phrase is defined because it would make it easier to determine whether the term in question is materially less favorable.

Specifically, we suggest that a rate spread be incorporated into the definition of “significantly greater.” In establishing this spread, the Agencies should provide an objective test to determine whether the requirement for a notice is triggered. We specifically suggest that the Agencies establish that “significantly greater” is at least four percentage points above the APR that is offered to a substantial portion of the consumers that use the specific product.

Exceptions to the Risk-Based Pricing Notice

In general, NAFCU supports the exceptions to the risk-based pricing notice. One option gives creditors the ability to provide a notice of credit score information if the loan sought is secured by one to four residential dwellings. Paragraph (d)(1)(ii)(D) of the proposal requires the notice to include all of the information required to be disclosed to the consumer pursuant to section 609(g) of the FCRA. Section 609(g) requires disclosure of: (i) the current credit score of the consumer or the most recent credit score of the consumer that was previously calculated for a purpose related to the extension of credit; (ii) the date on which that score was created; (iii) the name of the person or entity that provided the credit score or credit file on which the credit score was created; (iv) the range of possible credit scores under the model used; and (v) up to four key factors that adversely affected the consumer’s credit score (or up to five factors if the number of enquiries made with respect to that consumer report is one of the factors).

In addition, the notice must provide the consumer with a context for their score. To provide context, the Agencies would require a statement specifying that the terms offered may be less favorable than those available to consumers with better credit histories. The Agencies reason that this would be an effective way for consumers to evaluate their individual circumstances.

NAFCU does not believe that providing this statement of comparison gives consumers a useful context and believes the FCRA notice alone provides sufficient information.

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NAFCU appreciates this opportunity to share its comments on the proposed rule. Should you have any questions or require additional information please call me or Tessema Tefferi, NAFCU's Associate Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 268.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred R. Becker, Jr.", written in a cursive style.

Fred R. Becker, Jr.
President/CEO

FRB/tt